IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.21727 of 2004

Between:

Dasari Ranga Rao S/o.Late Nagabhushanam
Tailor, D.No.4-373, Ring Road Ramavarappadu, Vijayawada,

Krishna District.

..... PETITIONER

AND

1 S.Lakshmi Devi W/o.S.Vishnu Rao
Flat No.103, Sarada Apartments Bhommangalli, Barkatpura, Hyderabad.
2 K.Saraswati W/o.K.Gopala Krishna
Flat No.103, Sarada Apartments Bhommangalli, Barkatpura, Hyderabad.
3 The Sub Collector Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or order or direction more particularly in the nature of writ of Certiorari calling for the records pertaining to the case in LGC No.74/2000 dated 24.11.2003 on the file of the Special Court under A.P Land Grabbing (Prohibition) Act 1982 and quash the same.

Counsel for the Petitioner: Mr. K.S.MURTHY

Counsel for Respondents 1 and 2: Mr. P. GOVIND REDDY

Counsel for the Respondent No.3: GP FOR REVENUE

The Court made the following :

O R D E R : (Per **C.V. RAMULU,J**)

The petitioner was 4th respondent before the Special Court under the A.P. Land Grabbing (Prohibition) Act,1982 in L.G.C.No.74 of 2000. Special Court passed an Order on 24-11-2003 holding that the respondents therein including the writ petitioner are land grabbers and they were directed to deliver possession of the schedule property to the respondents 1 and 2 herein (applicants before the Special Court) within a period of two months from the date of the order.

At the outset, it may be noted that the order passed by the Special Court was executed against all the respondents in the said L.G.C. except the writ petitioner.

According to the petitioner, he purchased an extent of 115 square yards of land in R.S.No.130, Ramavarappadu, Vijayawada Rural under a registered sale deed dated 17-9-1998 and constructed a house therein bearing Municipal No.4-373. He had also taken electricity and telephone connections. His vendor – 2nd respondent in the LGC – acquired title from his vendors through registered sale deed executed in November,1997. Respondents 1 and 2 herein had filed the above Land Grabbing Case and he filed a counter affidavit denying the allegations made by them. After filing the counter, his vendor informed him that he was dealing with the case through an Advocate from Vijayawada itself and as such, he was under the impression that the case was being pursued by his vendor and he was also shown as 'land grabber'. Due to some financial difficulties and due to ignorance of the proceedings

of the Special Court, his vendor did not pursue the matter and the Special Court without verifying the documents on record and title of respondents 1 and 2 herein allowed the LGC filed by them.

Before going further, it may be apt to note that the writ petitioner filed W.P.No.9374 of 2004 and the same was dismissed on 22-9-2004 holding as under:

> "A copy of the judgment dt.24.11.2003 in L.G.C.No.74 of 2000 made by Full Bench of Special Court is annexed to the counter affidavit filed by respondents 3 and 4. A bare look at the same would show that it is not an *ex parte* order and the petitioner herein, who was arrayed as fourth respondent was represented by a counsel. The said order shows that respondents 3 and 4 herein examined P.W.1 and marked Exs.A1 to A5 whereas seven respondents therein, including the petitioner herein, did not lead any oral and documentary evidence. The Full Bench of the Special Court considered various issues framed and delivered the judgment on merits. Therefore, the contention that Special Court passed *ex parte* order cannot be accepted."

Soon thereafter, the petitioner filed another writ petition being W.P.No.17708 of 2004, which was also dismissed on 9-11-2004 observing as under:

> "We have heard learned counsel for the petitioner, who has projected that petitioner was unable to prosecute the proceedings because of his illness and old age. Such ground only alleged in the petition without any further proof that the petitioner was prevented either to appear himself in the Court or through counsel cannot be termed even a sufficient ground to set aside the *ex parte* order. It is not that abruptly the Special Court passed the order. Sufficient latitude was given and twice indulgence was shown by not resorting to taking any punitive action. It was total lack of *bona fides* on the part of the petitioner, for which the Special Court rightly passed the order, which is not liable to be interfered with in exercise of writ jurisdiction. Moreover, we are informed that only fourth respondent in the Land Grabbing Case contested the proceedings, two of the respondents are stated to be vendors of the petitioner. Besides petitioner, there is another land grabber, who is stated to have already left and given up, and his claim having been abided by the order of the Special Court."

After dismissal of the second writ petition, the petitioner filed the present writ petition and obtained interim order of dispossession on 26-11-2004.

The only submission of Sri K.S. Murthy, learned counsel for the petitioner, is that the petitioner purchased *bona fidely* 115 Sq.yards of land and when some persons claiming title through family members and relatives of one of the original owners issued notice dated 21-8-2000, the petitioner had informed about this transaction to them. Therefore, this is a simple title dispute between two sets of persons and this does not amount to 'grabbing of land'. Therefore, the very petition before the Special Court was not maintainable and the same was liable to be dismissed. Unfortunately, the Special Court entertained the same and passed an *ex*

parte order declaring the petitioner herein also as a land grabber along with other respondents therein. The petitioner had no opportunity of defending himself properly. Therefore, the impugned order of the Special Court is liable to be set aside.

We have given our anxious consideration to the Order of the Special Court and also the orders passed in the above two writ petitions. This all would make it clear that the petitioner is aware of all the proceedings. Though he engaged an Advocate and filed a counter in the LGC, did not pursue the matter further. It is noticed from the impugned Order that the colony in which the schedule property is situated, was named as 'Srinivasapuram'. The plot bearing No.1 of the layout was retained by the father of respondents 1 and 2 herein and after their father's demise, they got the said property. The evidence of P.W.1 reveals that the 2nd respondent before the Special Court purchased the land ad measuring about 256 sq.yards from Abburi Venkateswarlu and others, which encloses the land of the applicants (respondents 1 and 2 herein) and the respondents therein occupied the same without any legal entitlement. P.W.1 also stated that the 2nd respondent therein, in turn, sold the land ad measuring about 22 sq.yards to the 3rd respondent, 115 sq.yards to the 4th respondent and out of the remaining land of 120 sq.yards, the 2nd respondent retained 40 sq.yards and sold 80 sq.yards to respondents 5 and 6. Respondents 2,5 and 6 therein jointly wanted to develop the land of 120 sq.yards by constructing flats in the land. P.W.1's evidence further reveals that originally her father purchased property in the year 1931 and thereafter he got layout of the property and sold it out by retaining plot No.1 of the said layout and subsequently the respondents grabbed the same without any legal entitlement. A perusal of the documents clearly reveals that her father purchased the property in the year 1931 under Ex.A1 and thereafter he sold certain land by making layout keeping one plot under him. All these facts were specifically mentioned in the legal notice issued earlier. Respondents 5 to 7 before the Special Court remained *ex parte.* Respondents 2 to 4 claimed that they purchased the property under registered sale deeds in the years 1997, 1999 and 1998 respectively and they are in occupation and enjoyment of the same as *bona fide* purchasers. Having pleaded that they had purchased the property under the registered sale deeds, failed to produce any registered documents and they have not adduced any evidence to rebut the evidence of P.W.1. Thus, the testimony of P.W.1 coupled with the documentary evidence under Exs.A1 to A4 conclusively established that the father of respondents 1 and 2 herein purchased the schedule

property and after selling major portion of the land, retained plot No.1. Respondents 1 and 2 herein discharged their statutory burden in proving that they are the owners of the schedule property. Though the burden was shifted on the respondents before the Special Court, they have not discharged their burden. There was no rebuttal evidence. Under these circumstances, the finding of the Special Court that the petitioner was also one of the land grabbers along with other respondents cannot be said to be illegal. As seen from the above, the petitioner approached this Court twice earlier and this is the third round of litigation. He wanted to drag on the proceedings by any means, though the decree against the other respondents in the LGC has already been executed. When the vendor of the writ petitioner was also arrayed as 2nd respondent in the L.G.C. and he also contested the matter, but was held as 'land grabber', the petitioner cannot have any better title than that of the 2nd respondent from whom he said to have purchased the land. Therefore, the findings recorded by the Special Court do not suffer from any incurable infirmity. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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(B. SUDERSHAN REDDY,J)

December 20, 2004

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(C.V. RAMULU,J)

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 S.Lakshmi Devi, W/o S.Vishnu Rao,
Flat No.103, Sarada Apartments, Bhommangalli, Barkatpura, Hyderabad.
2 K.Saraswati, W/o K.Gopala Krishna
Flat No.103, Sarada Apartments Bhommangalli, Barkatpura, Hyderabad.
3 The Sub Collector Vijayawada, Krishna District.

4. 2CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT)

5. 2CD copies